

North Carolina

# State Long-Term Care Ombudsman Program

2015 Annual Report



*Promoting quality of life  
and quality of care  
for long-term care residents.*





RICHARD O. BRAJER  
*Secretary*

SUZANNE P. MERRILL  
*Director, Division of Aging and Adult Services*

June 21, 2016

I am pleased to submit the 2015 North Carolina Long-Term Care Ombudsman Program annual report for federal fiscal year Oct. 1, 2014 through Sept. 30, 2015.

This annual report provides a comprehensive overview of the statewide community advisory committee system. These volunteers have committed thousands of hours and miles in conducting personal visits with residents in facilities throughout the state. There is also an updated review of the accomplishments in advocacy and direct services provided by both the Regional Long-Term Care Ombudsmen, and the Office of the State Long-Term Care Ombudsman. Long-Term Care Ombudsmen, through empowerment, intervention, and mediation make a difference in the quality of life for many North Carolinians. Program charts and data review demonstrate our achievements toward protecting residents' rights, emboldening families, and educating consumers, in addition to the program maintaining its committed focus towards improving the culture of resident-centered care in North Carolina.

North Carolina General Statute 143B-181. 18 (8) requires the Office of the State Long-Term Care Ombudsman to prepare an annual report. A variety of information and data has been included in this year's report which I believe illustrates the Long-Term Care Ombudsman Program's successful accomplishments during 2015.

I welcome any questions or comments you may have about our annual report.

Sincerely,

Victor Orija

State Long-Term Care Ombudsman





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## 2015 Program Overview

October 1, 2014 – September 30, 2015

North Carolina State and Regional Long-Term Care (LTC)  
Ombudsman Program

<b>3,815</b>	Complaints received by the LTC Ombudsman Program
<b>2,036</b>	Complainants assisted by State and Regional LTC Ombudsmen
<b>6,836</b>	Technical assistance provided to individuals regarding long-term care issues
<b>3,505</b>	Resident visits made in adult care homes and nursing homes
<b>548</b>	Facility licensure surveys observed
<b>138</b>	Resident Council meetings attended
<b>61</b>	Family Council meetings attended
<b>632</b>	Community education workshops conducted
<b>2,387</b>	Consultations to LTC providers
<b>300</b>	Training sessions provided for staff in LTC facilities
<b>1,801</b>	Hours spent training community advisory committee members and new ombudsmen

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## Long-Term Care Ombudsman Program History

The federal Older Americans Act provided the authorization for the establishment of a national Long-Term Care Ombudsman Program beginning in 1978. In subsequent years, amendments to the Older Americans Act expanded the jurisdiction, and scope of the Long-Term Care Ombudsman Program in each state to include both nursing homes and adult care homes, including the creation of a network of trained volunteers, an information complaint resolution process, and systems advocacy responsibilities related to problems impacting residents in long term care facilities.

In 1989, the North Carolina State Long-Term Care Ombudsman Program was codified into state law through General Statute 143B-181.15-.25, which mirrors the federal mandates set forth in the Older Americans Act for the program. State legislation established both the Office of State Long-Term Care Ombudsman and an Office of Regional Long-Term Care Ombudsmen with the intent that the Long-Term Care Ombudsman Program would be administered statewide by the State Long-Term Care Ombudsman. The North Carolina

State Long-Term Care Ombudsman Program is located in the Department of Health and Human Services, Division of Aging and Adult Services. The 16 Offices of the Regional Long-Term Care Ombudsman Programs are housed in area agencies on aging across the state.

## Long-Term Care Ombudsman Program Purpose

The North Carolina Long-Term Care Ombudsman Program's mission is to protect residents' rights and improve the quality of care and life for residents in long-term care facilities by providing access and advocacy services that assist residents in protecting their health, safety, welfare, and rights. The Long-Term Care Ombudsman Program's mandated responsibilities are to:

- Receive and attempt to resolve complaints made by or on behalf of residents in long-term care facilities;
- Provide information to the general public on long-term care issues;
- Promote community involvement with long-term care residents and facilities;



- Work with long-term care providers to resolve issues of common concern;
- Assist long-term care providers with staff training (particularly on Residents' Rights);
- Train and provide technical assistance to community advisory committee volunteers who are appointed by the boards of county commissioners;
- Collect and report data regarding the number of complaints handled and other program activities;
- Carry out activities for community education and prevention of elder abuse, neglect, and exploitation; and
- Provide information to public agencies, legislators, and others on problems impacting the rights of residents as well as make recommendations for resolution of issues identified.

<sup>1</sup> 42 USC § 3001 et seq. A copy of relevant sections is attached as Appendix A.

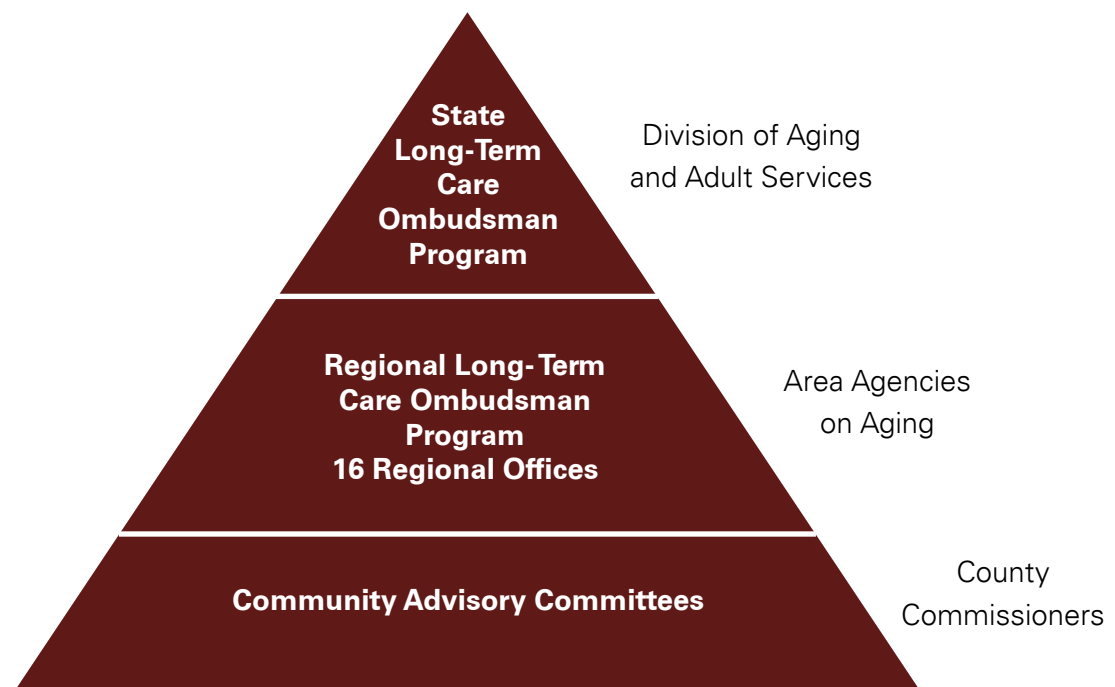
<sup>2</sup> § 143B-181.15-.25 et seq. A copy is attached as Appendix B.



# Long-Term Care Ombudsman Program Organization

The Office of the State Long-Term Care Ombudsman is in the Elder Rights and Special Initiatives Section of the Division of Aging and Adult Services. The State Long-Term Care Ombudsman, along with an Ombudsman Program Specialist and an Ombudsman/Elder Rights Specialist manage day-to-day program administration that includes ensuring all newly hired regional ombudsmen complete the required state certification process and that the program is in compliance with mandates in the Older Americans Act as amended, and N.C. General Statutes. The Regional Long-Term Care Ombudsman Programs are housed in the 16 Area Agencies on Aging across the state. Each Regional Ombudsman Program provides advocacy and direct services to long-term care residents in a specified number of counties that comprise the Area Agency on Aging's service area.

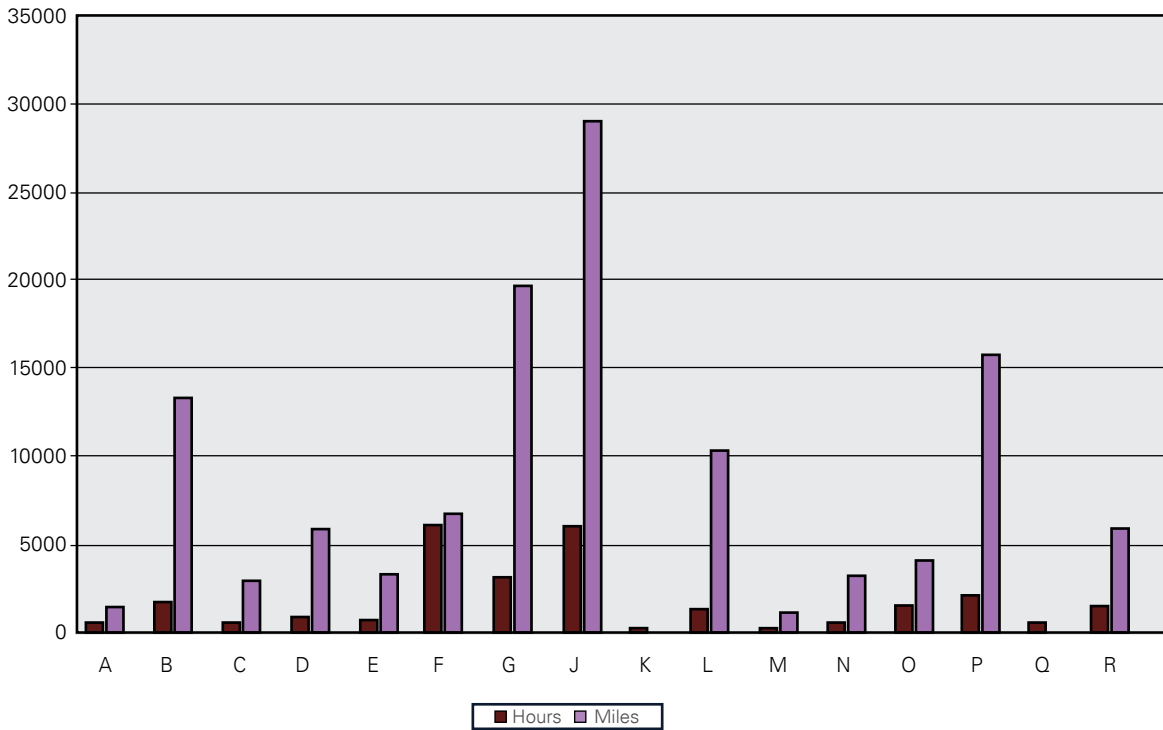
## Program Oversight and Structure in North Carolina



Established through state legislation in the mid-1970s, community advisory committees are comprised of local citizens appointed by each county's board of county commissioners based on the type and number of facilities located in the county. Once appointed, each community advisory committee member completes 15 hours of initial training prior to assuming the official duties mandated by state statute (G.S. 131D-31 and G. S. 131E-128). The regional long-term care ombudsmen ensure that each appointed volunteer completes the required training included in the State Long-Term Care Ombudsman Program's Policies and Procedures to equip them to serve as 'grassroots advocates' in their communities. The volunteers are responsible for visiting with residents and assisting residents and families in resolving grievances involving residents' rights. Committees also serve as a catalyst for increasing community involvement with long-term care facilities in their area.

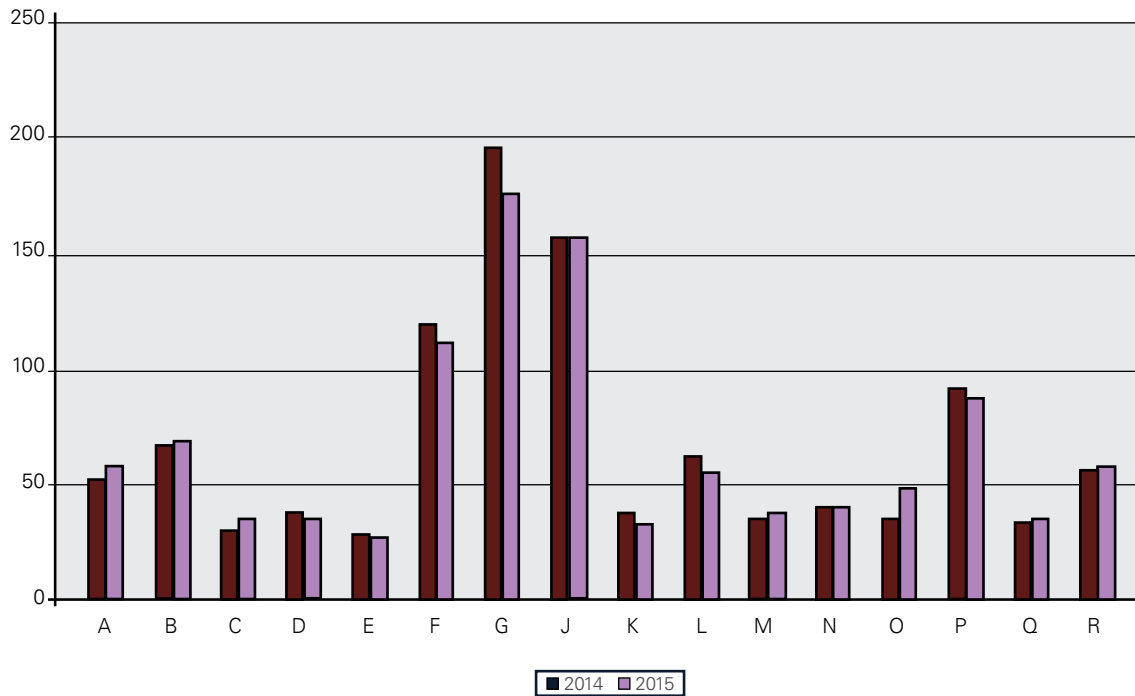
There are currently 1,057 trained volunteers serving on the adult care home, nursing home or joint community advisory committees in all 100 counties of the state. Regional ombudsmen submit quarterly reports that include the number of volunteer hours logged by committee members. Volunteers are not required to report the number of miles they travel fulfilling their duties; however, many do voluntarily provide this information as part of their quarterly activity reports.

### Community Advisory Committee Volunteers' Hours and Miles by Region FFY 2015





### Number of Community Advisory Committee Volunteers Per Region FFY 2014 & FFY 2015



	A	B	C	D	E	F	G	J	K	L	M	N	O	P	Q	R
FFY 2014	52	67	29	38	28	120	196	157	37	61	35	40	35	91	33	56
FFY 2015	58	68	34	34	27	112	176	157	32	55	37	40	48	87	35	57

## Regional Long-Term Care Ombudsmen are located within the Area Agencies on Aging (AAA)

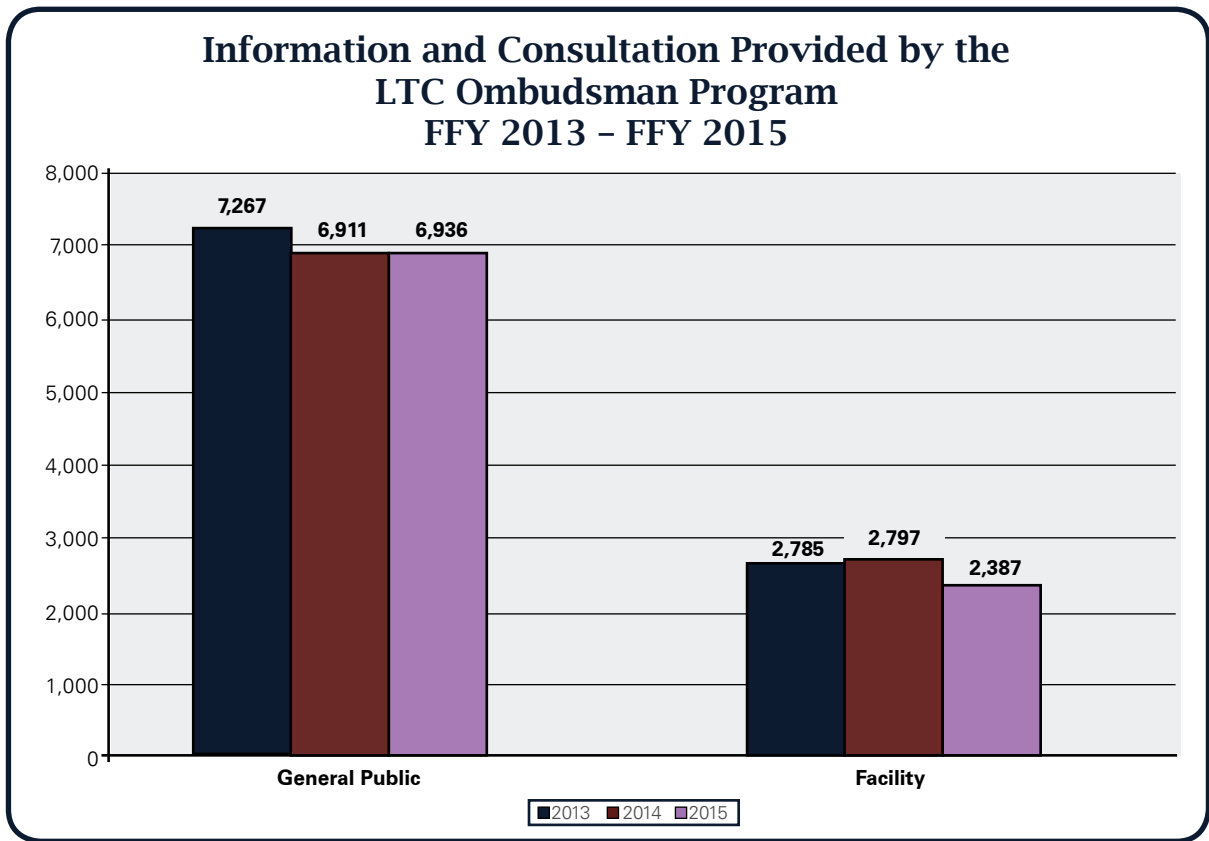
**Area Agencies on Aging** are offices established through the Older Americans Act that serve to facilitate and support the development of programs to address the needs of older adults in a defined geographic region (**see map**) and support investment in their talents and interests. In North Carolina, AAAs are located within regional Councils of Government. These AAAs have functions in five basic areas: (1) advocacy; (2) planning; (3) program and resource development; (4) information brokerage; and (5) funds administration and quality assurance.



### Area Agency on Aging

#### Contact Information for N.C. Regional LTC Ombudsmen

<http://www.ncdhhs.gov/assistance/senior-services/area-agencies-on-aging>



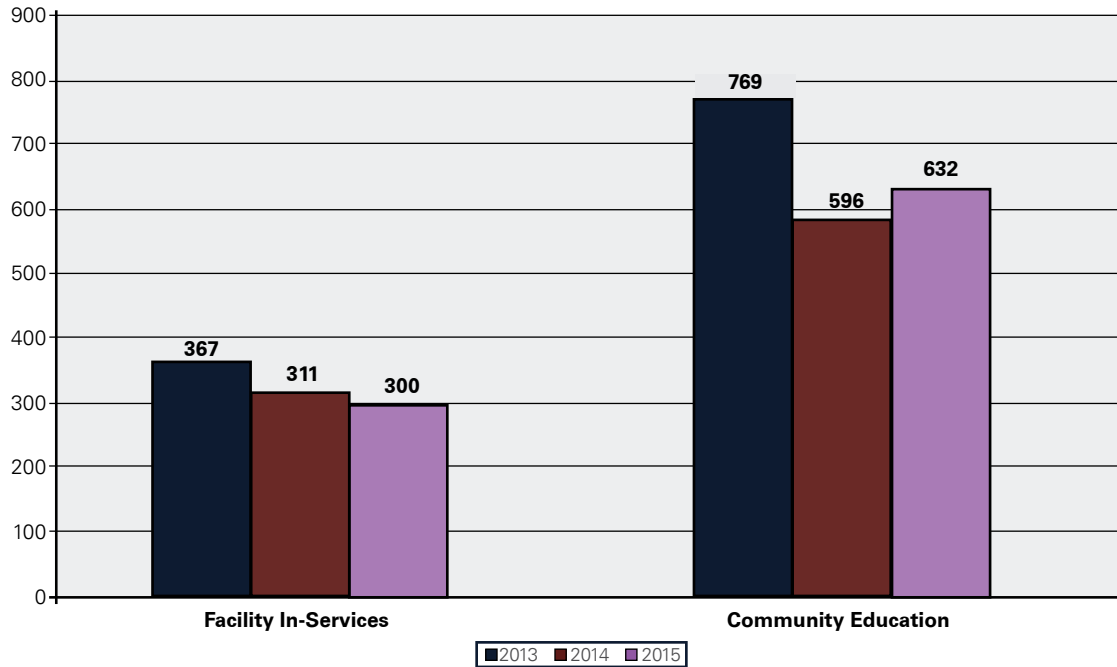
Ombudsmen provided **information and consultation to 6,936 individuals**, usually by telephone, correspondence or in-person during 2015. The information most frequently requested:

- List of Long-Term Care Facilities
- Residents' Rights
- How to Select a Facility

Ombudsmen provided **2,387 consultations to Nursing Homes and Adult Care Homes**. Most frequent topics to facilities were:

- Transfer/Discharge
- Resident Rights
- Dealing with Difficult Behaviors of Residents

### Long-Term Care Facility In-Services and Community Education FFY 2013 - FFY 2015



Ombudsmen provided **300 training sessions for long-term care staff** during 2015. The most frequent topics of trainings were:

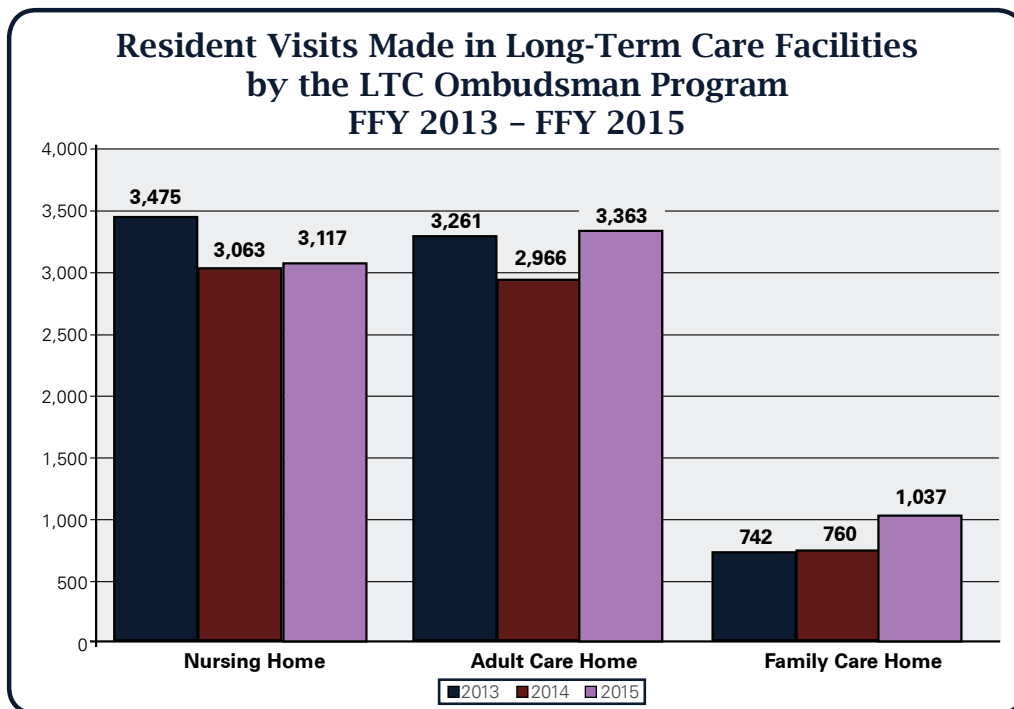
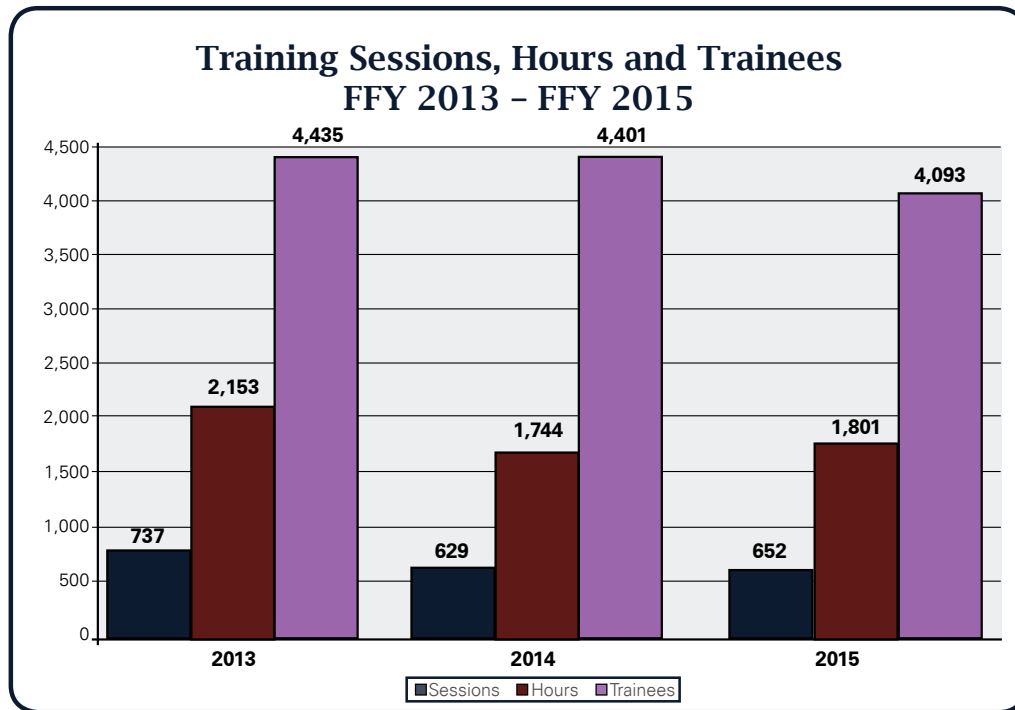
- Residents' Rights
- Aging Sensitivity
- Elder Abuse, Neglect and Exploitation Awareness

The Ombudsman Program provided **632 community education sessions** for a variety of audiences. The most frequent educational topics included:

- Long-Term Care Ombudsman Program

- Elder Abuse Awareness, Identification & Prevention
- Aging Sensitivity

Data available through the Ombudsman Program Documentation and Information System shows that **221 of the educational presentations conducted for facility staff, community advisory committees and community groups** through the Long-Term Care Ombudsman Program focused on topics related to **Elder Abuse Prevention and Awareness**. A total of **8,680 attendees participated** in various Elder Abuse Prevention and Awareness educational sessions.



The Long-Term Care Ombudsman program conducted a total of **7,517 visits to residents** in long-term care facilities in Federal Fiscal Year 2015.



## Ombudsman Program Success Story

The Regional Long-Term Care Ombudsman received a telephone call from a resident (Mr. H) who was having problems getting his bed from the previous facility where he stayed. Mr. H informed the Ombudsman that during the move to the new facility his bed, a hospital bed with a special mattress, was left at the other facility. The bed was very important to him, because he has chronic back pain and the mattress helped alleviate some of the pain.

After receiving consent from Mr. H, the Ombudsman contacted the former facility and spoke to the Administrator on behalf of Mr. H. The Administrator state that the facility had closed and the bed was in storage at a home health agency.

Then, after many phone calls, the Ombudsman was able to coordinate an arrangement on the residents' behalf for the current facility staff to go to the home health agency to pick up the bed and mattress. Mr. H was delighted to finally rest well in his own bed with his special mattress.



## Ombudsman Program Success Story

A Regional Ombudsman received a call from a daughter who was very concerned about her mother repeatedly falling out of bed. The resident had been at the facility about three months and had fallen 11 times, according to the daughter (seven times, according to the facility). The last fall resulted in a laceration and bruising above the residents' eye. The only thing the daughter was requesting was to have mats or pads on the floor to soften her mothers' fall.

Although it appeared that the facility saw the necessity for the fall mats, they had a corporate policy which included no fall mats (due to trip hazard). The facility stated that they have implemented a number of interventions to "prevent" the resident from falling. The Regional Ombudsman made the case that these interventions were obviously no working, as falls were continuing to occur.

Regional Ombudsman suggested that the resident, family, Regional Ombudsman, and facility representatives—including corporate, all meet. The Regional Ombudsman held her ground and successfully advocated for the resident to be allowed fall mats. Shortly after the meeting, the resident was provided a fall mat to make her safer in the facility.



# North Carolina Long-Term Care Facilities 2015

## Nursing Homes

Number of Licensed Facilities	Number of Licensed Beds
439	50,605

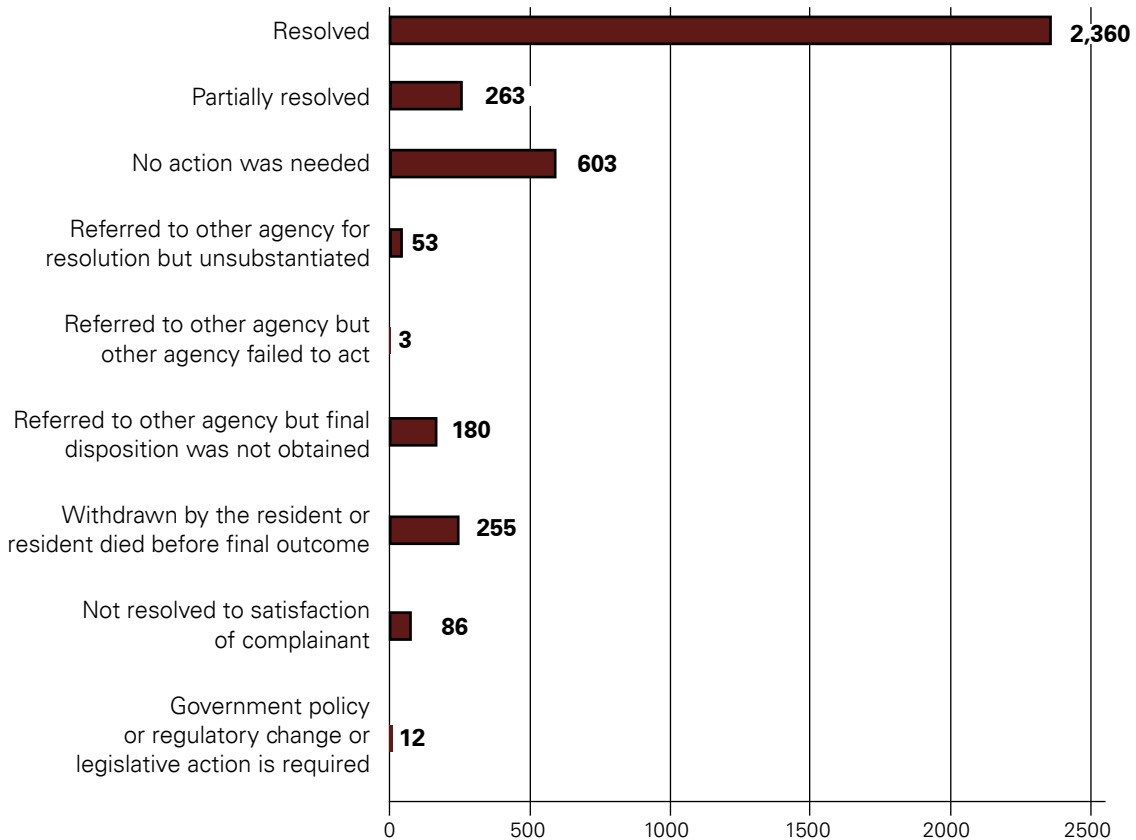
## Adult Care Homes

Number of Licensed Facilities	Number of Licensed Beds
1,269	41,633

**Complaint:** A concern brought to, or initiated by, the ombudsman for investigation and action by or on behalf of one or more residents of a long-term care facility relating to health, safety, welfare or rights of a resident.

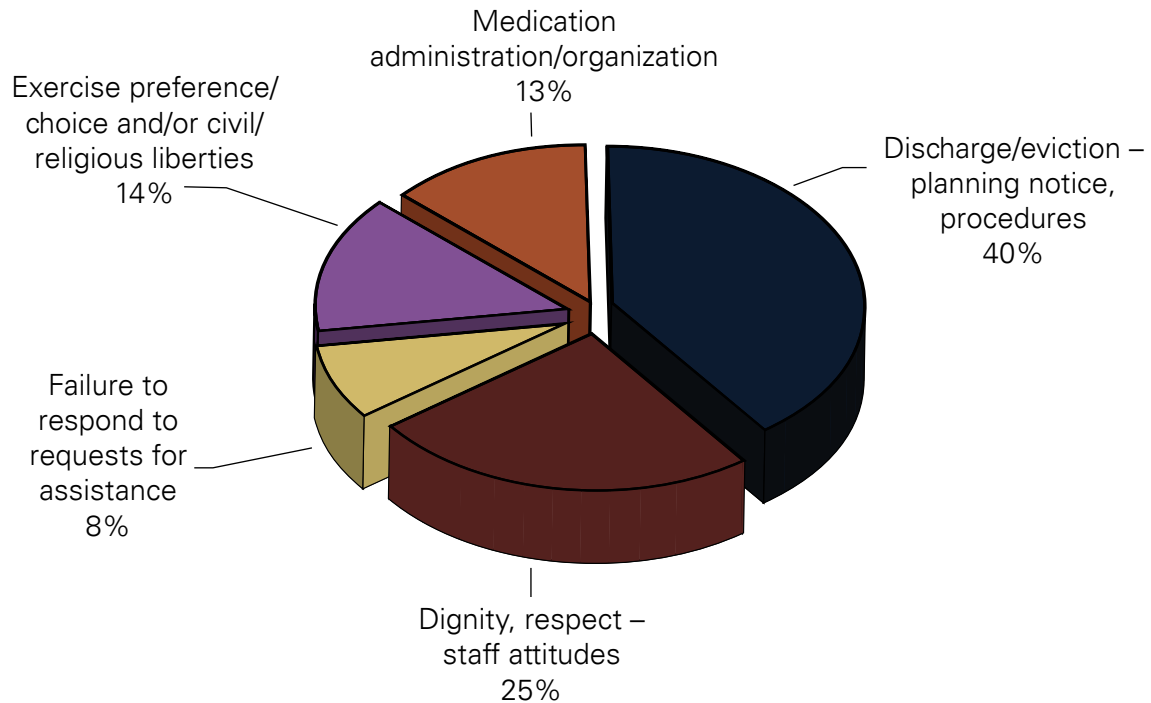
<b>Total FFY 2015 Complaints</b>	<b>2,280</b>	<b>1,535</b>
<b>Ombudsman Complaint Categories</b>	<b>Nursing Home Total Percent</b>	<b>Adult Care Home Total Percent</b>
<b>Resident Rights:</b> The right to a dignified existence, self-determination, communication and access to people inside or outside of the long-term care facility.	<b>1,048 (46%)</b>	<b>767 (50%)</b>
<b>Resident Care:</b> Necessary care and services to maintain the highest practicable physical, mental and psychosocial well-being according to comprehensive assessments and plans of care.	<b>614 (27%)</b>	<b>247 (16%)</b>
<b>Quality of Life:</b> A facility must care for those who live there in a manner and an environment that promotes maintenance and enhancement of each person's quality of life.	<b>332 (14%)</b>	<b>337 (22%)</b>
<b>Administration:</b> A facility must be administered to enable it to use its resources and staff effectively and efficiently to attain or maintain the highest practicable physical, mental and psychosocial well-being of each person who lives in the facility.	<b>183 (8%)</b>	<b>99 (6%)</b>
<b>Not Against Facility:</b> Complaints are against certification/licensing agency, State Medicaid, abuse by family or guardian, family conflict, Medicare, Mental Health, Adult Protective Services, Social Security or Veterans Administration.	<b>103 (5%)</b>	<b>85 (6%)</b>

### Disposition of Adult Care Home and Nursing Home Complaints FFY 2015





## Top Five Nursing Home Complaints FFY 2015



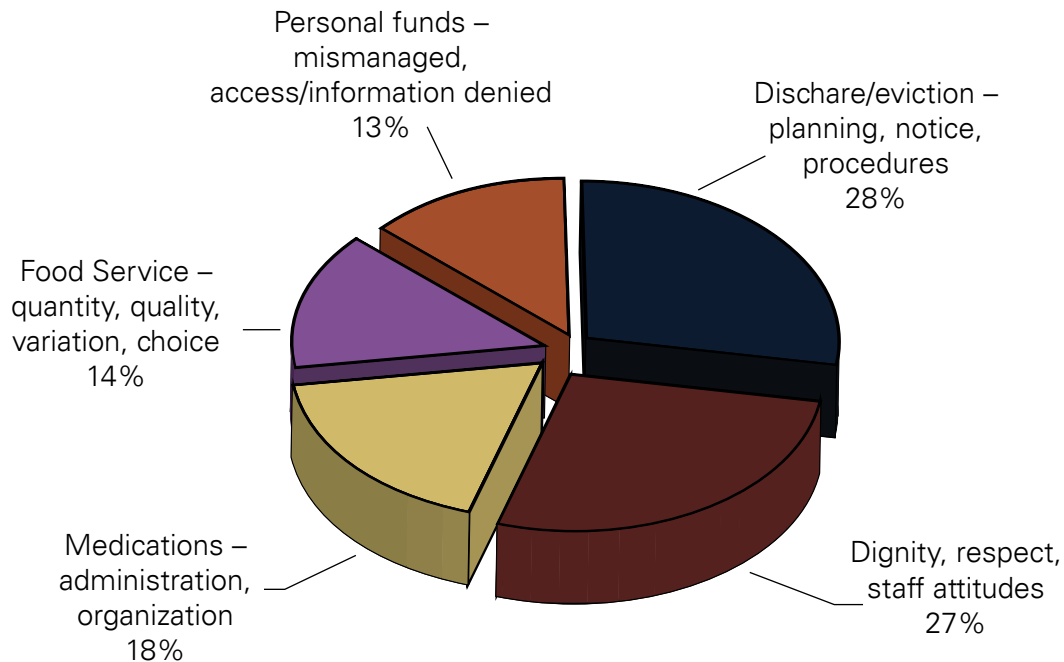
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### *Dignity and Respect*

***The right to be treated with dignity.***

- Everyone should knock and wait for a response before entering resident's room or bathroom.
  - Residents should be spoken to respectfully.
  - Call lights should be responded to promptly.
  - Residents should receive timely and courteous responses when assistance is needed in the bathroom.
-

## Top Five Adult Care Home Complaints FFY 2015



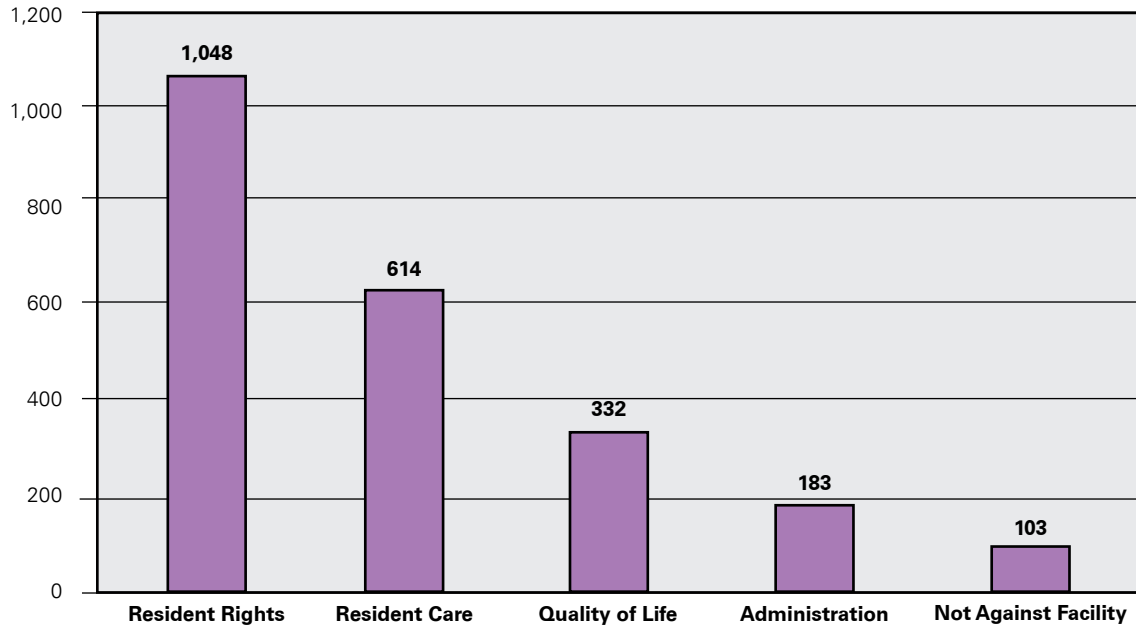
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### *Individuality*

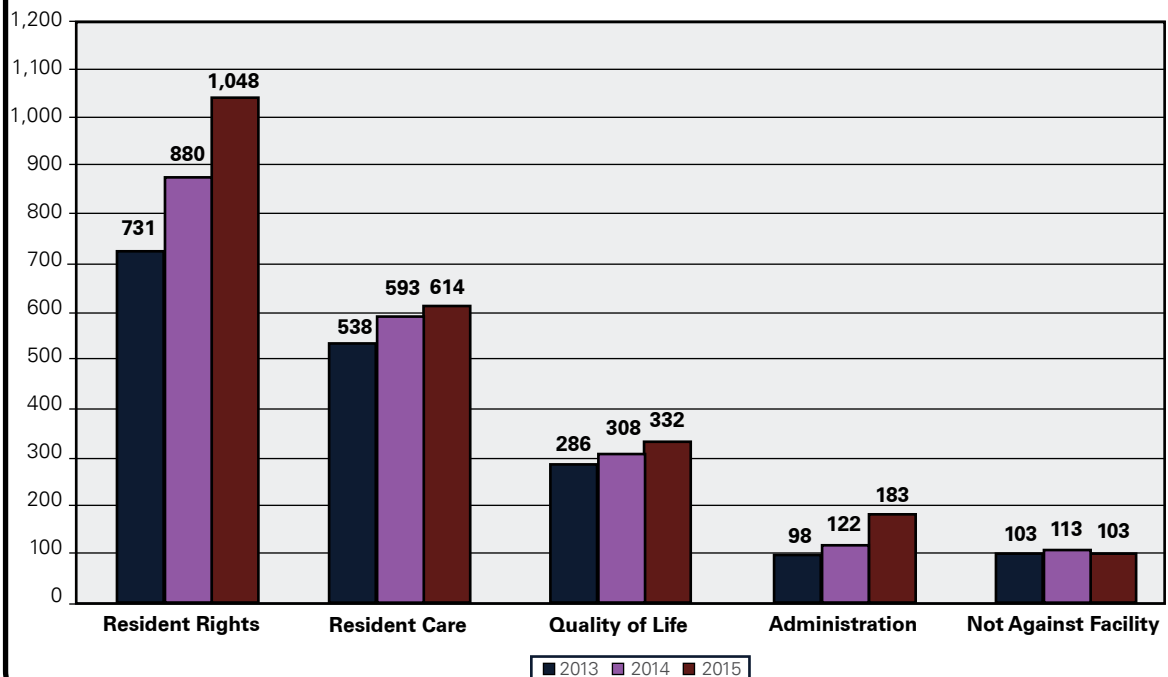
***The right to make your own  
decisions and choices.***

- A resident has the right to exercise their right as a resident of the facility and as a citizen or resident of the United States.
  - All residents have preferences and choices that are important to them.
  - It is nice when staff gets to know a person's routine, but everyone has a right to change their mind and try something different.
-

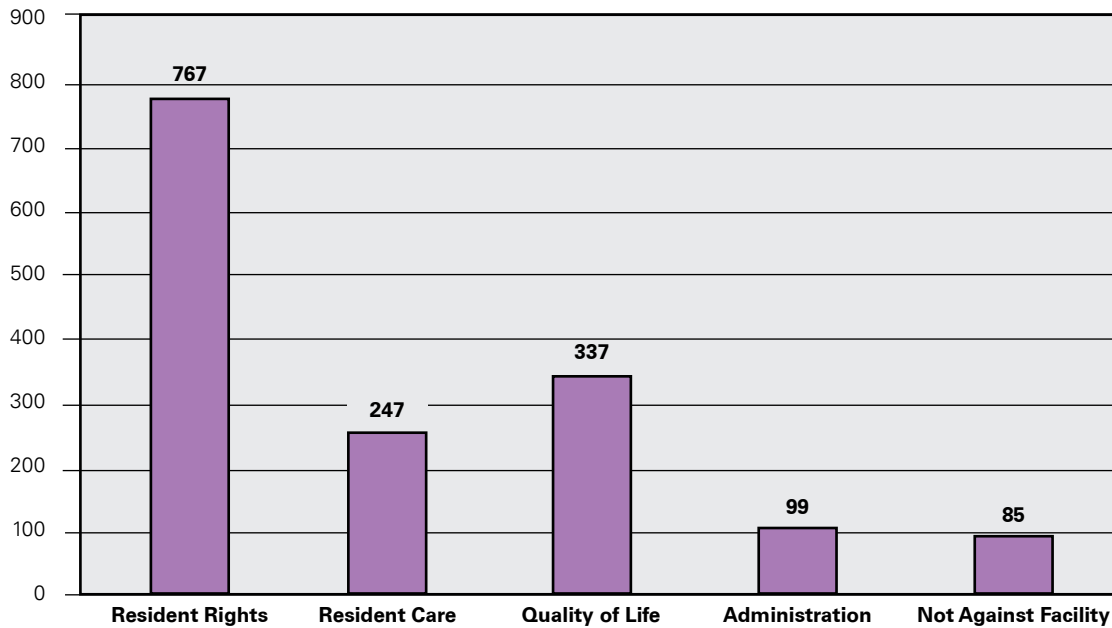
### 2015 Nursing Home Complaints by Category



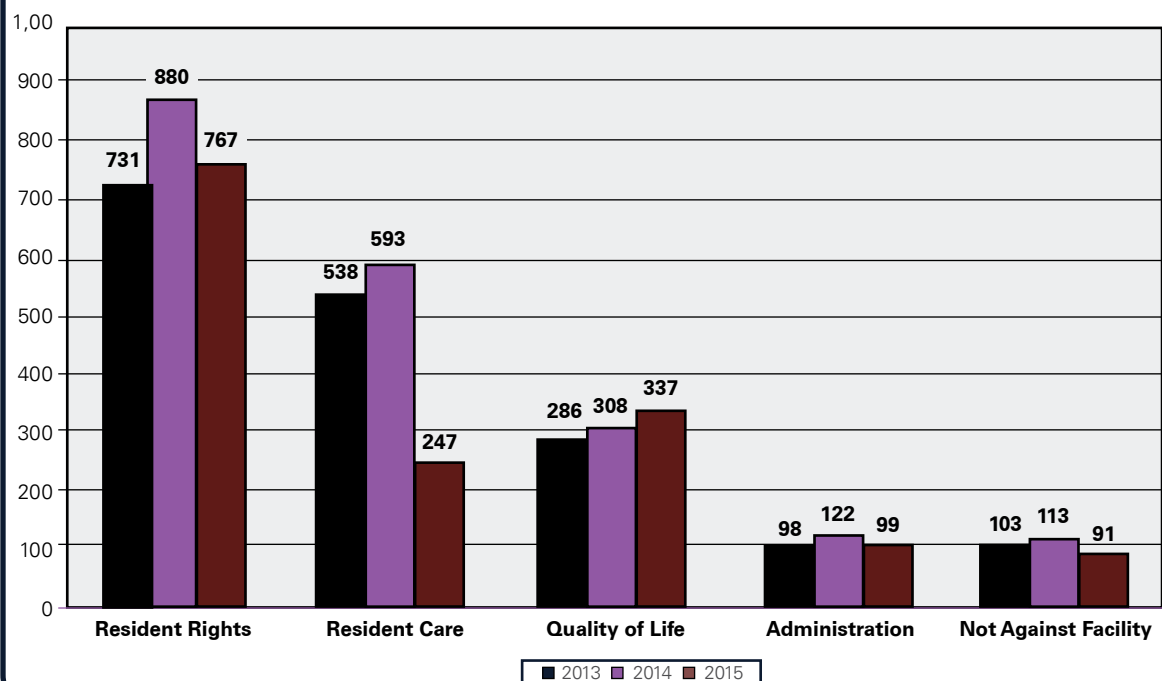
### Three Year Comparison of Nursing Home Complaints FFY 2013 – FFY 2015



### 2015 Adult Care Home Complaints by Category



### Three Year Comparison of Adult Care Home Complaints FFY 2013 – FFY 2015





## Elder Abuse Awareness Activities

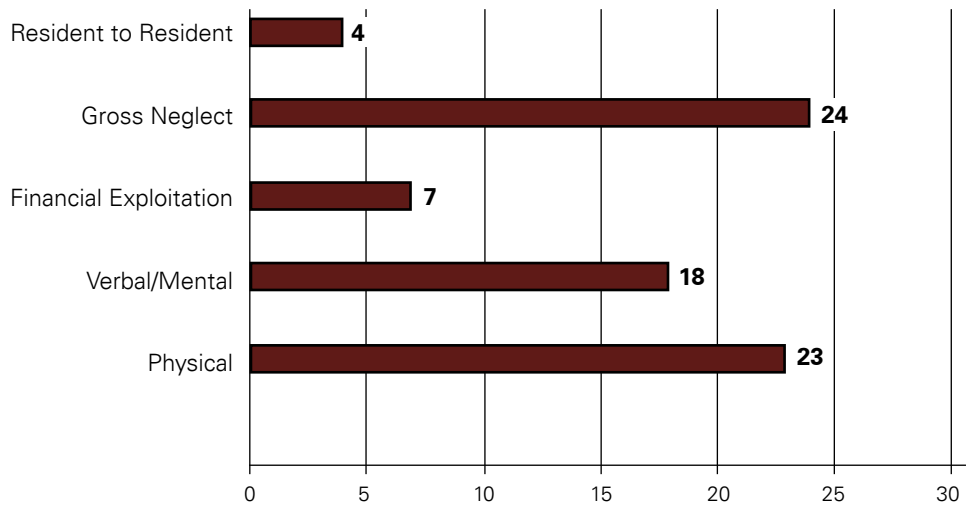
*Show the world you care by wearing Purple!*

The Long-Term Care Ombudsman Program across the state hosts a variety of community education and outreach sessions to educate the community, long-term care providers, and residents about elder abuse.

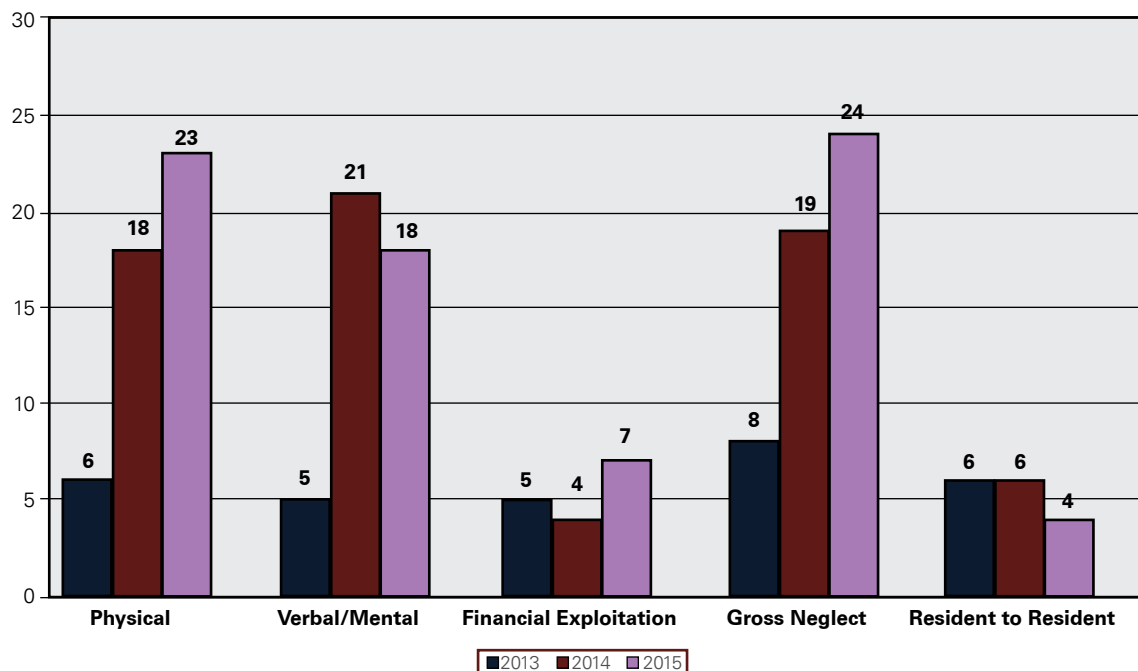
They seek community collaborations with agencies like long-term care facilities, law enforcement, emergency management, healthcare providers, local Department of Social Services, senior centers, faith groups, and other community entities to assist with outreach efforts. Often times, the Ombudsmen participate in multi-disciplinary teams that emphasize elder abuse awareness. Below are some examples of the outreach efforts by Ombudsmen across the state.



### FFY 2015 Nursing Home Abuse Complaints

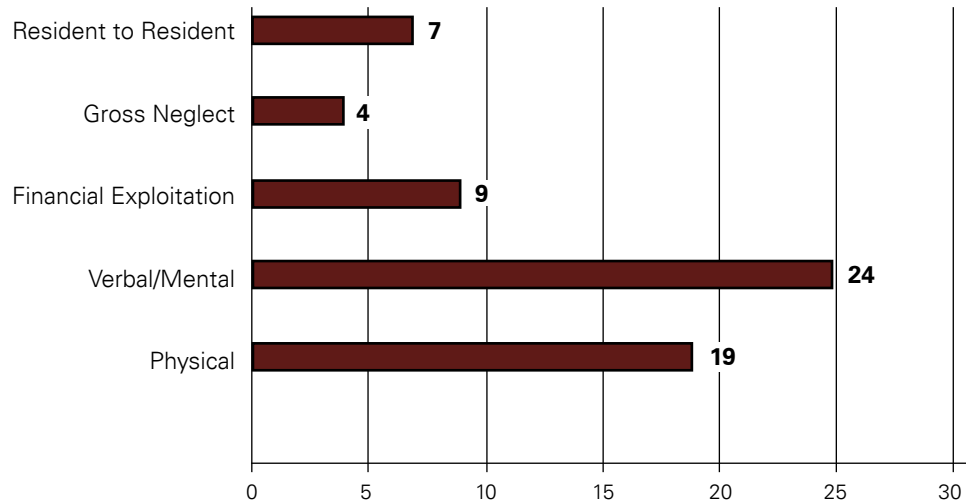


### Three Year Comparison of Abuse Complaints in Nursing Homes FFY 2013 – FFY 2015

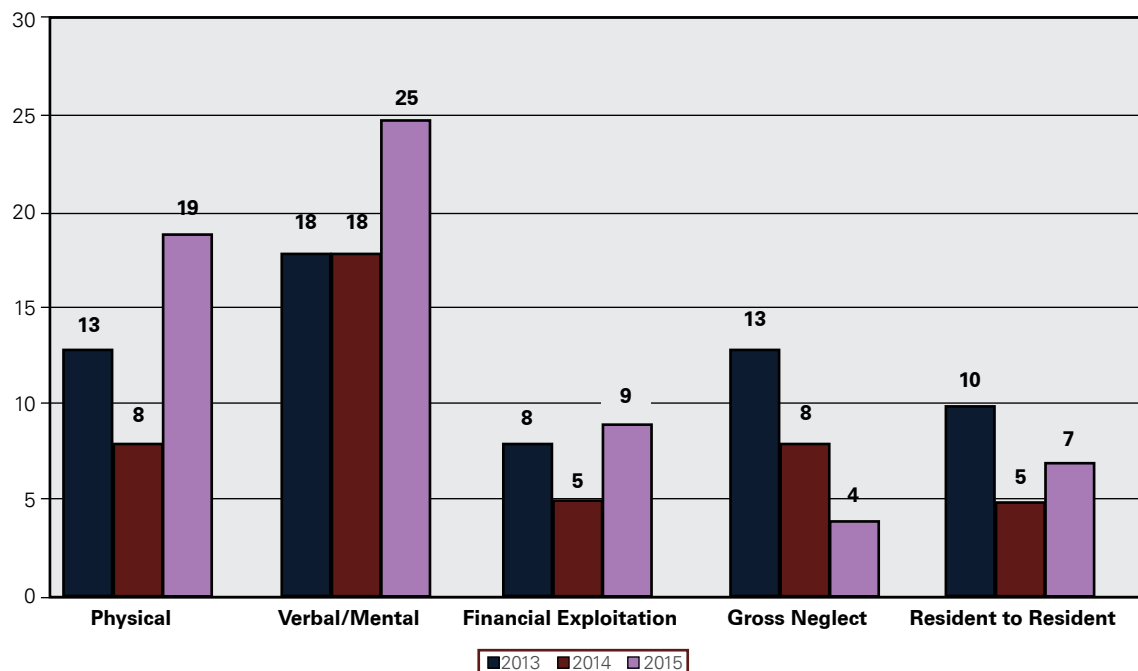




### FFY 2015 Adult Care Home Abuse Complaints



### Three Year Comparison of Abuse Complaints in Adult Care Homes FFY 2013 – FFY 2015



Regional Ombudsmen assisted in coordinating the “Modern Times, Modern Crimes,” an elder abuse awareness event conducted August 12, 2015 in Columbus County, N.C. The event focused on education about financial exploitation, scams, and fraud prevention.



The Ombudsmen in Region G assisted with the coordination of a region-wide Elder Abuse Awareness Walk at Triad Park in Kernersville, N.C. The event was attended by hundreds of providers, long-term care residents, and community members. Below is a group that attended from Caswell County, N.C.





The Regional Ombudsman in Region K assists with coordinating a rally each year for Elder Abuse Awareness that includes a walk, health fair, and speaker. This year, the Division of Aging and Adult Services' Elder Rights Section Chief was the keynote speaker.



Participants from long-term care facilities, senior centers, law enforcement, and other community partners at an Elder Abuse Awareness Walk in Macon County, N.C.





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# Appendices

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## APPENDIX A:

Nursing Home and Adult Care Home Residents' Rights

## APPENDIX B:

FFY 2013 Data Tables and Major Long-Term Care  
Issues from the N.C. Ombudsman Reporting Tool

## APPENDIX C:

Older Americans Act Title VII

## APPENDIX D:

North Carolina LTC Ombudsman Program  
General Statute





# Appendix A

## North Carolina Adult Care Home Bill of Rights (Condensed Version)

### Every resident shall have the following rights:

1. To be treated with respect, consideration, dignity and full recognition of his or her individuality and right to privacy.
2. To receive care and services which are adequate, appropriate and in compliance with relevant federal and state laws and rules and regulations.
3. To receive upon admission and during his or her stay a written statement of the services provided by the facility and the charges for these services.
4. To be free of mental and physical abuse, neglect and exploitation.
5. Except in emergencies, to be free from chemical and physical restraint unless authorized for a specified period of time by a physician according to clear and indicated medical need.
6. To have his or her personal and medical record kept confidential and not disclosed without the written consent of the individual or guardian, which consent shall specify to whom disclosure may be made except as required by applicable state or federal statute or regulation or by third party contract.
7. To receive a reasonable response to his or her requests from the facility administrator and staff.
8. To associate and communicate privately and without restriction with people and groups of his or her own choice on his or her own initiative at any reasonable hour.
9. To have access at any reasonable hour to a telephone where he or she may speak privately.
10. To send and receive mail promptly and unopened, unless the resident requests that someone open and read mail, and to have access at his or her expense to writing instruments, stationery and postage.
11. To be encouraged to exercise his or her rights as a resident and citizen, and to be permitted to make complaints and suggestions without fear of coercion or retaliation.
12. To have and use his or her own possessions where reasonable and have an accessible lockable space provided for security of personal valuables. This space shall be accessible only to the residents and the administrator or supervisor in charge.
13. To manage his or her personal needs funds unless such authority has been delegated to another. If authority to manage personal needs funds has been delegated to the facility, the resident has the right to examine the account at any time.
14. To be notified when the facility is issued a provisional license by the North Carolina Department of Health and Human Services and the basis on which the provisional license was issued. The resident's responsible family member or guardian shall also be notified.
15. To have freedom to participate by choice in accessible community activities and in social, political, medical and religious resources and to have freedom to refuse such participation.
16. To receive upon admission to the facility a copy of this section.
17. To not be transferred or discharged from a facility except for medical reasons, their own or other residents' welfare, or nonpayment. Except in cases of immediate jeopardy to health or safety, residents shall be given at least 30 days advance notice of the transfer or discharge and their right to appeal. \*\* Effective October 1, 2011, Session Law 2011-272/House Bill 677 requires facilities to convene the local "Adult Care Discharge Team" to assist facilities with finding placement for some residents. The ACH Resident Discharge Team consists of the Local Department of Social Services, the Local Management Entity, and the Regional LTC Ombudsman (if requested by the resident).

**The Ombudsman is an advocate for those who live in long term care facilities. For more information on resident rights, call the Regional Long Term Care Ombudsman.**

Your Regional Ombudsman is: \_\_\_\_\_ Telephone: \_\_\_\_\_



## North Carolina Bill of Rights for Nursing Home Residents (Condensed Version)

### **Every resident shall have the following rights:**

1. To be treated with consideration, respect and full recognition of personal dignity and individuality.
2. To receive care, treatment, and services that are adequate and appropriate, and in compliance with relevant federal and State rules.
3. To receive at the time of admission and during stay, a written statement of services provided by the facility and of related charges. Charges for services not covered under Medicare and Medicaid shall be specified.
4. To have on file physician's orders with proposed schedule of medical treatment. Written, signed evidence of prior informed consent to participation in experimental research shall be in patient's file.
5. To receive respect and privacy in his medical care program. All personal and medical records are confidential.
6. To be free of mental and physical abuse. To be free of chemical and physical restraint unless authorized for a specified period of time by a physician according to clear and indicated medical records.
7. To receive from the administrator or staff of the facility a reasonable response to all requests.
8. To receive visitors or have access to privacy in phone use at any reasonable hour. To send and receive mail promptly and unopened, with access to writing materials.
9. To manage his/her own financial affairs unless other legal arrangements have been so ordered.
10. To have privacy in visits by the patient's spouse.
11. To enjoy privacy in his/her own room.
12. To present grievances and recommend changes in policies and services without fear of reprisal, restraint, interference, coercion or discrimination.
13. To not be required to perform services for the facility without resident's consent and written approval of the attending physician.
14. To retain, to secure storage for, and to use his personal clothing and possessions, where reasonable.
15. To not be transferred or discharged from a facility except for medical, financial, or their own or other patient's welfare. Any such transfer shall require at least five days' notice, unless the attending physician orders immediate transfer, which shall be documented in the patient's medical record.
16. To be notified when the facility's license is revoked or made provisional. The responsible party or guardian must be notified, also.

**The Ombudsman is an advocate for those who live in long-term care facilities. For more information on resident rights, call the Regional Long-Term Care Ombudsman.**

Your Regional Ombudsman is: \_\_\_\_\_ Telephone: \_\_\_\_\_

# Appendix B

## A portion of the N.C. State LTC Ombudsman FFY 2015 Report to the Administration on Aging.

### FFY 2015 Part I. Data Tables from N.C. Ombudsman Reporting Tool & Part II. –Major Long Term Care Issues

#### Types of Complaints, By Type of Facility

Below, and on the following pages provide the total number of complaints for each specific complaint category, for nursing facilities and board and care or similar type of adult care facility. The first four major headings are for complaints involving action, or inaction by staff or management of the facility. The last major heading is for complaints against others outside the facility.

#### Residents' Rights

##### A. Abuse, Gross Neglect, Exploitation

1. Abuse, physical (including corporal punishment)
2. Abuse, sexual
3. Abuse, verbal/psychological (including punishment, seclusion)
4. Financial exploitation (use categories in section E for less severe financial complaints)
5. Gross neglect (use categories under Care, Sections F & G for non-willful forms of neglect)
6. Resident-to-resident physical or sexual abuse
7. Not used

Nursing Facility	Adult Care Homes
19	16
4	3
18	25
7	9
24	4
4	7

##### B. Access to Information by Resident or Resident's Representative

8. Access to own records
9. Access by or to Ombudsman/visitors
10. Access to facility survey/staffing reports/license
11. Information regarding advance directive
12. Information regarding medical condition, treatment and any changes
13. Information regarding rights, benefits, services, the resident's right to complain
14. Information communicated in understandable language
15. Not used

14	9
9	17
2	2
3	1
42	10
14	19
2	0

**C. Admission, Transfer, Discharge, Eviction**

Nursing Facility	Adult Care Homes
---------------------	------------------------

16. Admission contract and/or procedure	5	6
17. Appeal process - absent, not followed	1	0
18. Bed hold - written notice, refusal to readmit	13	3
19. Discharge/eviction - planning, notice, procedure, implementation, including abandonment	263	129
20. Discrimination in admission due to condition, disability	3	1
21. Discrimination in admission due to Medicaid status	4	1
22. Room assignment/room change/intrafacility transfer	36	22
23. Not used		

**D. Autonomy, Choice, Preference, Exercise of Rights, Privacy**

24. Choose personal physician, pharmacy/hospice/other health care provider	7	11
25. Confinement in facility against will (illegally)	14	17
26. Dignity, respect - staff attitudes	163	123
27. Exercise preference/choice and/or civil/religious rights, individual's right to smoke	96	52
28. Exercise right to refuse care/treatment	12	11
29. Language barrier in daily routine	2	0
30. Participate in care planning by resident and/or designated surrogate	21	5
31. Privacy - telephone, visitors, couples, mail	26	47
32. Privacy in treatment, confidentiality	7	8
33. Response to complaints	52	28
34. Reprisal, retaliation	16	16
35. Not used		

**E. Financial, Property (Except for Financial Exploitation)**

36. Billing/charges - notice, approval, questionable, accounting wrong or denied (includes overcharge of private pay residents)	67	55
37. Personal funds - mismanaged, access/information denied, deposits and other money not returned (report criminal-level misuse of personal funds under A.4)	17	59
38. Personal property lost, stolen, used by others, destroyed, withheld from resident	61	51
39. Not used		

**Resident Care**

Nursing Facility	Adult Care Homes
---------------------	------------------------

**F. Care**

- 40. Accidental or injury of unknown origin, falls, improper handling
- 41. Failure to respond to requests for assistance
- 42. Care plan/resident assessment - inadequate, failure to follow plan or physician orders (put lack of resident/surrogate involvement under D.30)
- 43. Contracture
- 44. Medications - administration, organization
- 45. Personal hygiene (includes nail care & oral hygiene) and adequacy of dressing and grooming
- 46. Physician services, including podiatrist
- 47. Pressure sores, not turned
- 48. Symptoms unattended, including pain, pain not managed, no notice to others of changes in condition
- 49. Toileting, incontinent care
- 50. Tubes - neglect of catheter, gastric, NG tube (use D.28 for inappropriate/forced use)
- 51. Wandering, failure to accommodate/monitor exit seeking behavior
- 52. Not used

30	7
102	18
64	32
8	0
84	81
70	23
25	20
27	2
46	9
29	9
7	1
6	3

**G. Rehabilitation or Maintenance of Function**

- 53. Assistive devices or equipment
- 54. Bowel and bladder training
- 55. Dental services
- 56. Mental health, psychosocial services
- 57. Range of motion/ambulation
- 58. Therapies - physical, occupational, speech
- 59. Vision and hearing
- 60. Not used

34	20
3	3
6	3
10	4
21	1
28	6

**H. Restraints - Chemical and Physical**

- 61. Physical restraint- assessment, use, monitoring
- 62. Psychoactive drugs- assessment, use, evaluation
- 63. Not Used

2	1
7	2

**Quality of Life****I. Activities and Social Services**

Nursing Facility	Adult Care Homes
---------------------	------------------------

- 64. Activities - choice and appropriateness
- 65. Community interaction, transportation
- 66. Resident conflict, including roommates
- 67. Social services - availability/appropriateness/ (use G.56 for mental health, psychosocial counseling/service)
- 68. Not Used

22	38
8	17
28	28
18	0

**J. Dietary**

- 69. Assistance in eating or assistive devices
- 70. Fluid availability/hydration
- 71. Food service - quantity, quality, variation, choice, condiments, utensils, menu
- 72. Snacks, time span between meals, late/missed meals
- 73. Temperature
- 74. Therapeutic diet
- 75. Weight loss due to inadequate nutrition
- 76. Not Used

17	3
19	3
49	62
14	18
19	11
12	10
5	0

**K. Environment**

- 77. Air/environment: temperature and quality (heating, cooling, ventilation, water, noise)
- 78. Cleanliness, pests, general housekeeping
- 79. Equipment/building - disrepair, hazard, poor lighting, fire safety, not secure
- 80. Furnishings, storage for residents
- 81. Infection control
- 82. Laundry - lost, condition
- 83. Odors
- 84. Space for activities, dining
- 85. Supplies and linens
- 86. Americans with Disabilities Act (ADA) accessibility

20	19
25	44
16	24
5	13
8	6
17	13
9	9
0	0
20	17
1	2

**Administration**

Nursing Facility	Adult Care Homes
---------------------	------------------------

- 87. Abuse investigation/reporting, including failure to report
- 88. Administrator(s) unresponsive, unavailable
- 89. Grievance procedure (use C for transfer, discharge appeals)
- 90. Inappropriate or illegal policies, practices, record-keeping
- 91. Insufficient funds to operate
- 92. Operator inadequately trained
- 93. Offering inappropriate level of care (for B&C/similar)
- 94. Resident or family council/committee interfered with, not supported
- 95. Not Used

2	1
11	10
10	2
2	1
0	1
1	2
4	1
3	1

**M. Staffing**

- 96. Communication, language barrier (use D.29 if problem involves resident inability to communicate)
- 97. Shortage of staff
- 98. Staff training
- 99. Staff turn-over, over-use of nursing pools
- 100. Staff unresponsive, unavailable
- 101. Supervision
- 102. Eating Assistants

3	2
48	14
12	9
3	4
73	34
9	15
2	2

**Not Against Facility****N. Certification/Licensing Agency**

- 103. Access to information (including survey)
- 104. Complaint, response to
- 105. Decertification/closure
- 106. Sanction, including intermediate
- 107. Survey process
- 108. Survey process - Ombudsman participation
- 109. Transfer or eviction hearing
- 110. Not used

0	0
9	5
0	0
0	0
0	0
0	0
12	5

**O. State Medicaid Agency**

- 111. Access to information, application
- 112. Denial of eligibility
- 113. Non-covered services
- 114. Personal needs allowance
- 115. Services
- 116. Not used

Nursing Facility	Adult Care Homes
4	1
1	4
1	3
0	4
3	4

**P. System/Others**

- 117. Abuse/neglect/abandonment by family member/friend/guardian or, while on visit out of facility, any other person
- 118. Bed shortage - placement
- 119. Facilities operating without a license
- 120. Family conflict; interference
- 121. Financial exploitation, or neglect by family or other not affiliated with facility
- 122. Legal - guardianship, conservatorship, power of attorney, wills
- 123. Medicare
- 124. Mental health, developmental disabilities, including PASRR
- 125. Problems with resident's physician/assistant
- 126. Protective Service Agency
- 127. SSA, SSI, VA, other benefits agencies
- 128. Request for less restrictive placement

1	0
0	0
0	1
13	10
4	2
17	20
10	2
3	0
6	0
0	1
10	8
9	15
2,280	1,535

**Total, categories A through P****Q. Complaints About Services in Settings Other Than Long-Term Care Facilities or By Outside Provider In Long-Term Care Facilities (see Instructions)**

- 129. Home care
- 130. Hospital or hospice
- 131. Public or other congregate housing not providing personal care
- 132. Services from outside provider (see instructions)
- 133. Not Used

0
0
0
0
0
3,815

**Total, Heading Q.****Total Complaints\***



## **Part II. Major Long-Term Care Issues FFY 2015**

### **By the N.C. State Long-Term Care Ombudsman**

North Carolina has continued to experience the sudden closure of adult care homes due to a variety of circumstances. The Long-Term Care Ombudsman Program has responded to support the affected residents and work collaboratively with other state and local agencies to relocate the residents based on their needs and preferences as much as possible. A Regional Ombudsman has generally been onsite to meet with the residents and offer support and information within two working days of the notice of immediate closure. The Office of the State Long-Term Care Ombudsman actively participates in the state level stakeholders as alerts are issued of a pending sudden closure.





# Appendix C

## **Title VII, Chapter 2, Section 712 2000 Amendments to the Older Americans Act**

SEC 712 (42 U.S.C. 3058g) STATE LONG TERM CARE OMBUDSMAN PROGRAM.

(a) Establishment.—

(1) In general. In order to be eligible to receive an allotment under Section 703 from funds appropriated under Section *702 and made available to carry out this chapter*, a State agency shall, in accordance with this Section

(A) establish and operate an Office of the State Long Term Care Ombudsman; and

(B) carry out through the Office a State Long Term Care Ombudsman program.

(2) Ombudsman. The Office shall be headed by an individual, to be known as the State Long Term Care Ombudsman, who shall be selected from among individuals with expertise and experience in the fields of long term care and advocacy.

(3) Functions. The Ombudsman shall serve on a full time basis, and shall, personally or through representatives of the Office—

(A) identify, investigate, and resolve complaints that –

(i) are made by, or on behalf of, residents and

(ii) relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents (including the welfare and rights of the residents with respect to the appointment and activities of guardians and representative payees), of

(I) providers, or representatives of providers, of long-term care services;

(II) public agencies; or

(III) health and social service agencies;

(B) provide services to assist the residents in protecting the health, safety, welfare, and rights of the residents;

(C) inform the residents about means of obtaining services provided by providers or agencies described in subparagraph (A)(ii) or services described in subparagraph (B);

(D) ensure that the residents have regular and timely access to the services provided through the Office and that the residents and complainants receive timely responses from representatives of the Office to complaints;

(E) represent the interests of the residents before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;

(F) provide administrative and technical assistance to entities designated under paragraph (5) to assist the entities in participating in the program;

(G) (i) analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other governmental policies and actions, that pertain to the health, safety, welfare, and rights of the residents, with respect to the adequacy of long term care facilities and services in the State;

(ii) recommend any changes in such laws, regulations, policies, and actions as the Office determines to be appropriate; and

(iii) facilitate public comment on the laws, regulations, policies, and actions;

(H) (i) provide for training representatives of the Office;

(ii) promote the development of citizen organizations, to participate in the program; and

(iii) provide technical support for the development of resident and family councils to protect the well being and rights of residents; and

(I) carry out such other activities as the Assistant Secretary determines to be appropriate

(4) Contracts and arrangements.--

(A) In general. Except as provided in subparagraph (B), the State agency may establish and operate the Office, and carry out the program, directly, or by contract or other arrangement with any public agency or nonprofit private organization.

(B) Licensing and certification organizations; associations. The State agency may not enter into the contract or other arrangement described in subparagraph (A) with

(i) an agency or organization that is responsible for licensing or certifying long term care services in the State; or

- (ii) an association (or an affiliate of such an association) of long term care facilities, or of any other residential facilities for older individuals.

(5) Designation of local ombudsman entities and representatives.–

(A) Designation. – In carrying out the duties of the Office, the Ombudsman may designate an entity as a local Ombudsman entity, and may designate an employee or volunteer to represent the entity.

(B) Duties. – An individual so designated shall, in accordance with the policies and procedures established by the Office and the State agency

- (i) provide services to protect the health, safety, welfare and rights of residents;
- (ii) ensure that residents in the service area of the entity have regular, timely access to representatives of the program and timely responses to complaints and requests for assistance;
- (iii) identify, investigate, and resolve complaints made by or on behalf of residents that relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or

(iv) represent the interests of residents before government agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;

(v)

(I) review, and if necessary, comment on any existing and proposed laws, regulations, and other government policies and actions, that pertain to the rights and well-being of residents; and

(II) facilitate the ability of the public to comment on the laws, regulation, policies, and actions;

(vi) support the development of resident and family councils; and

(vii) carry out other activities that the Ombudsman determines to be appropriate.

(C) Eligibility for designation. Entities eligible to be designated as local Ombudsman entities, and individuals eligible to be designated as representatives of such entities, shall

- (i) have demonstrated capability to carry out the responsibilities of the Office;
  - (ii) be free of conflicts of interest *and not stand to gain financially through an action or potential action brought on behalf of individuals the Ombudsman serves*;
  - (iii) in the case of the entities, be public or nonprofit private entities; and
  - (iv) meet such additional requirements as the Ombudsman may specify.
- (D) Policies and procedures.--
- (i) In general. The State agency shall establish, in accordance with the Office, policies and procedures for monitoring local Ombudsman entities designated to carry out the duties of the Office.
  - (ii) Policies. In a case in which the entities are grantees, or the representatives are employees, of area agencies on aging, the State agency shall develop the policies in consultation with the area agencies on aging. The policies shall provide for participation and comment by the agencies and for resolution of concerns with respect to case activity.
  - (iii) Confidentiality and disclosure. The State agency shall develop the policies and procedures in accordance with all provisions of this subtitle regarding confidentiality and conflict of interest.

(b) Procedures for Access.--

- (1) In General. The State shall ensure that representatives of the Office shall have--
- (A) access to long term care facilities and residents;
  - (B) (i) appropriate access to review the medical and social records of a resident, if
    - (I) the representative has the permission of the resident, or the legal representative of the resident; or
    - (II) the resident is unable to consent to the review and has no legal representative; or
  - (ii) access to the records as is necessary to investigate a complaint if
    - (I) a legal guardian of the resident refuses to give the permission;

- (II) a representative of the Office has reasonable cause to believe that the guardian is not acting in the best interests of the resident; and
    - (III) the representative obtains the approval of the Ombudsman;
  - (C) access to the administrative records, policies, and documents, to which the residents have, or the general public has access, of long term care facilities; and
  - (D) access to and, on request, copies of all licensing and certification records maintained by the State with respect to long term care facilities.
- (2) Procedures.—The State agency shall establish procedures to ensure the access described in paragraph (1).
- (c) Reporting System.—The State agency shall establish a statewide uniform reporting system to—
- (1) collect and analyze data relating to complaints and conditions in long term care facilities and to residents for the purpose of identifying and resolving significant problems; and
  - (2) submit the data, on a regular basis, to
    - (A) the agency of the State responsible for licensing or certifying long term care facilities in the State;
    - (B) other State and Federal entities that the Ombudsman determines to be appropriate;
    - (C) the Assistant Secretary; and
    - (D) the National Ombudsman Resource Center established in Section 202(a)(21).
- (d) Disclosure.—
- (1) In general.—The State agency shall establish procedures for the disclosure by the Ombudsman or local Ombudsman entities of files maintained by the program, including records described in subsection (b)(1) or (c).
  - (2) Identity of complainant or resident.—The procedures described in paragraph (1) shall—
    - (A) provide that, subject to subparagraph (B), the files and records described in paragraph (1) may be disclosed only at the discretion of the Ombudsman (or the person designated by the Ombudsman to disclose the files and records); and



- (B) prohibit the disclosure of the identity of any complainant or resident with respect to whom the Office maintains such files or records unless—
  - (i) the complainant or resident, or the legal representative of the complainant or resident, consents to the disclosure and the consent is given in writing;
  - (ii) (I) the complainant or resident gives consent orally; and  
(II) the consent is documented contemporaneously in a writing made by a representative of the Office in accordance with such requirements as the State agency shall establish; or
  - (iii) the disclosure is required by court order.
- (e) Consultation.—In planning and operating the program, the State agency shall consider the views of area agencies on aging, older individuals, and providers of long term care.

**(f) Conflict of Interest.—The State agency shall—**

- (1) Ensure that no individual, or member of the immediate family of an individual, involved in the designation of the Ombudsman (whether by appointment or otherwise) or the designation of an entity designated under subsection (a)(5), is subject to a conflict of interest;**
- (2) ensure that no officer or employee of the Office, representative of a local Ombudsman entity, or member of the immediate family of the officer, employee, or representative, is subject to a conflict of interest;
- (3) ensure that the Ombudsman—
  - (A) does not have a direct involvement in the licensing or certification of a long term care facility or of a provider of a long term care service;
  - (B) does not have an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long term care facility or a long term care service;
  - (C) is not employed by, or participating in the management of, a long term care facility; and
  - (D) does not receive, or have the right to receive, directly or indirectly, remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long term care facility; and

- (4) establish, and specify in writing, mechanisms to identify and remove conflicts of interest referred to in paragraphs (1) and (2), and to identify and eliminate the relationships described in subparagraphs (A) through (D) of paragraph (3), including such mechanisms as--
  - (A) the methods by which the State agency will examine individuals, and immediate family members, to identify the conflicts; and
  - (B) the actions that the State agency will require the individuals and such family members to take to remove such conflicts.
- (g) Legal Counsel.--The State agency shall ensure that--
  - (1) (A) adequate legal counsel is available, and is able, without **conflict of interest**, to
    - (i) provide advice and consultation needed to protect the health, safety, welfare, and rights of residents; and
    - (ii) assist the Ombudsman and representatives of the Office in the performance of the official duties of the Ombudsman and representatives; and
  - (B) legal representation is provided to any representative of the Office against whom suit or other legal action is brought or threatened to be brought in connection with the performance of the official duties of the Ombudsman or such a representative; and
  - (2) the Office pursues administrative, legal, and other appropriate remedies on behalf of residents.
- (h) Administration.--The State agency shall require the Office to--
  - (1) prepare an annual report--
    - (A) describing the activities carried out by the Office in the year for which the report is prepared;
    - (B) containing and analyzing the data collected under subsection (c);
    - (C) evaluating the problems experienced by, and the complaints made by or on behalf of, residents;
    - (D) containing recommendations for
      - (i) improving quality of the care and life of the residents; and
      - (ii) protecting the health, safety, welfare, and rights of the residents;

- (E) (i) analyzing the success of the program including success in providing services to residents of board (and care facilities and other similar adult care facilities; and
- (ii) identifying barriers that prevent the optimal operation of the program; and
- (F) providing policy, regulatory, and legislative recommendations to solve identified problems, to resolve the complaints, to improve the quality of care and life of residents, to protect the health, safety, welfare, and rights of residents, and to remove the barriers;

**(2) analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other government policies and actions that pertain to long-term care facilities and services, and to the health, safety, welfare, and rights of residents, in the State, and recommend any changes in such laws, regulation, and policies as the Office determines to be appropriate;**

- (3) (A) provide such information as the Office determines to be necessary to public and private agencies, legislators, and other persons, regarding–
  - (i) the problems and concerns of older individuals residing in long term care facilities; and
  - (ii) recommendations related to the problems and concerns; and
- (B) make available to the public, and submit to the Assistant Secretary, the chief executive officer of the State, the State legislature, the State agency responsible for licensing or certifying long term care facilities, and other appropriate governmental entities, each report prepared under paragraph (1);
- (4) *strengthen and update* procedures for the training of the representatives of the Office, including unpaid volunteers, based on model standards established by the Director of the Office of Long-Term Care Ombudsman Programs, in consultation with representatives of citizen groups, long term care providers, and the Office, that–
  - (A) specify a minimum number of hours of initial training;
  - (B) specify the content of the training, including training relating to–
    - (i) Federal, State, and local laws, regulations, and policies, with respect to long term care facilities in the State;

- (ii) investigative techniques; and
    - (iii) such other matters as the State determines to be appropriate; and
  - (C) specify an annual number of hours of in service training for all designated representatives;
  - (5) prohibit any representative of the Office (other than the Ombudsman) from carrying out any activity described in subparagraphs (A) through (G) of subsection (a)(3) unless the representative--
    - (A) has received the training required under paragraph (4); and
    - (B) has been approved by the Ombudsman as qualified to carry out the activity on behalf of the Office;
  - (6) coordinate ombudsman services with the protection and advocacy systems for individuals with developmental disabilities and mental illnesses established under--
    - (A) part A of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 et seq.); and
    - (B) the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.);
  - (7) coordinate, to the greatest extent possible, ombudsman services with legal assistance provided under section 306(a)(2)(C), through adoption of memoranda of understanding and other means;
  - (8) *coordinate services with State and local law enforcement agencies and courts of competent jurisdiction; and*
  - (9) permit any local Ombudsman entity to carry out the responsibilities described in paragraph (1), (2), (3), (6), or (7).
- (i) Liability.--The State shall ensure that no representative of the Office will be liable under State law for the good faith performance of official duties.

(j) Noninterference.--The State shall--

- (1) ensure that willful interference with representatives of the Office in the performance of the official duties of the representatives (as defined by the Assistant Secretary) shall be unlawful;
- (2) prohibit retaliation and reprisals by a long term care facility or other entity with respect to any resident, employee, or other person for filing a complaint with, providing information to, or otherwise cooperating with any representative of, the Office; and
- (3) provide for appropriate sanctions with respect to the interference, retaliation, and reprisals.



# Appendix D

## Long-Term Care Ombudsman Program.

### Part 14D. North Carolina State Long-term Care Ombudsman Program

#### § 143B-181.15. Long-Term Care Ombudsman Program/Office; policy.

It is the intent of the General Assembly to protect and improve the quality of care and life for residents through the establishment of a program to assist residents and providers in the resolution of complaints or common concerns, to promote community involvement and volunteerism in long-term care facilities, and to educate the public about the long-term care system.

The General Assembly finds that a significant number of older citizens of this State reside in long-term care facilities and are dependent on others to provide their care. It is the further intent of the General Assembly that the Department of Health and Human Services, within available resources and pursuant to its duties under the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq., ensure that the quality of care and life for these residents is maintained, that necessary reports are made, and that, when necessary, corrective action is taken at the Department level. (1989, c. 403, s. 1; 1995, c. 254, s. 1; 1997-443, s. 11A.118 (a).)

#### § 143B-181.16. Long-Term Care Ombudsman Program/Office; definition.

Unless the content clearly requires otherwise, as used in this Article:

- (1) "Long-term care facility" means any skilled nursing facility and intermediate care facility as defined in G.S. 131A-3(4) or any adult care home as defined in G.S. 131D-20(2).
- (2) "Resident" means any person who is receiving treatment or care in any long-term care facility.
- (3) "State Ombudsman" means the State Ombudsman as defined by the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq., who carries out the duties and functions established by this Article.
- (4) "Regional Ombudsman" means a person employed by an Area Agency on Aging to carry out the functions of the Regional Ombudsman Office established by this Article. (1989, c. 403, s. 1; 1995, c. 254, s. 2; c. 535, s. 35.)

**§ 143B-181.17. Office of State Long-Term Care Ombudsman Program/Office; establishment.**

The Secretary of Department of Health and Human Services shall establish and maintain the Office of State Long-Term Ombudsman in the Division of Aging. The Office shall carry out the functions and duties required by the Older Americans Act of 1965, as amended. This Office shall be headed by a State Ombudsman who is a person qualified by training and with experience in geriatrics and long-term care. The Attorney General shall provide legal staff and advice to this Office. (1989, c. 403, s. 1; 1997-443, s. 11A.118 (a).)

**§ 143B-181.18. Office of State Long-Term Care Ombudsman Program/State Ombudsman duties.**

The State Ombudsman shall:

- (1) Promote community involvement with long-term care providers and residents of long-term care facilities and serve as liaison between residents, residents' families, facility personnel, and facility administration;
- (2) Supervise the Long-Term Care Program pursuant to rules adopted by the Secretary of the Department of Health and Human Services pursuant to G.S. 143B-10;
- (3) Certify regional ombudsmen. Certification requirements shall include an internship, training in the aging process, complaint resolution, long-term care issues, mediation techniques, recruitment and training of volunteers, and relevant federal, State, and local laws, policies, and standards;
- (4) **Attempt to resolve complaints made by or on behalf individuals who are residents of long-term care facilities, which complaints relate to administrative action that may adversely affect the health, safety, or welfare of residents;**
- (5) Provide training and technical assistance to regional ombudsmen;
- (6) Establish procedures for appropriate access by regional ombudsmen to long-term care facilities and residents' records including procedures to protect the confidentiality of these records and to ensure that the identity of any complainant or resident will not be disclosed except as permitted under the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq.;



- (7) Analyze data relating to complaints and conditions in long-term care facilities to identify significant problems and recommend solutions;
- (8) Prepare an annual report containing data and findings regarding the types of problems experienced and complaints reported by residents as well as recommendations for resolutions of identified long-term care issues;
- (9) Prepare findings regarding public education and community involvement efforts and innovative programs being provided in long-term care facilities; and
- (10) Provide information to public agencies, and through the State Ombudsman, to legislators, and others regarding problems encountered by residents or providers as well as recommendations for resolution. (1989, c. 403, s. 1; 1995, c. 254, s. 3; 1997-443, s. 11A.118(a).)

**§ 143B-181.19. Office of Regional Long-Term Care Ombudsman; Regional Ombudsman; duties.**

- (a) An Office of Regional Ombudsman Program shall be established in each of the Area Agencies on Aging, and shall be headed by a Regional Ombudsman who shall carry out the functions and duties of the Office. The Area Agency on Aging administration shall provide administrative supervision to each Regional Ombudsman.
- (b) Pursuant to policies and procedures established by the State Office of Long-Term Care Ombudsman, the Regional Ombudsman shall:
  - (1) Promote community involvement with long-term care facilities and residents of long-term care facilities and serve as a liaison between residents, residents' families, facility personnel, and facility administration;
  - (2) Receive and attempt to resolve complaints made by or on behalf of residents in long-term care facilities;
  - (3) Collect data about the number and types of complaints handled;
  - (4) Work with long-term care providers to resolve issues of common concern;
  - (5) Work with long-term care providers to promote increased community involvement;
  - (6) Offer assistance to long-term care providers in staff training regarding residents' rights;



- (7) Report regularly to the office of State Ombudsman about the data collected and about the activities of the Regional Ombudsman;
- (8) Provide training and technical assistance to the community advisory committees; and
- (9) Provide information to the general public on long-term care issues. (1989, c. 403.)

**§ 143B-181.20. State/Regional Long-Term Care Ombudsman; authority to enter; cooperation of government agencies; communication with residents.**

- (a) The State and Regional Ombudsman may enter any long-term care facility and may have reasonable access to any resident in the reasonable pursuit of his function. The Ombudsman may communicate privately and confidentially with residents of the facility individually or in groups. The Ombudsman shall have access to the patient records as permitted under the Older Americans Act of 1965, as amended, 42 U.S.C. §3001 et seq., and under procedures established by the State Ombudsman pursuant to G.S. 143B-181.18(6). Entry shall be conducted in a manner that will not significantly disrupt the provision of nursing or other care to residents and if the long-term care facility requires registration of all visitors entering the facility, then the State or Regional Ombudsman must also register. Any State or Regional Ombudsman who discloses any information obtained from the patient's records except as permitted under the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq., is guilty of a Class 1 misdemeanor.
- (b) The State or Regional Ombudsman shall identify himself as such to the resident, and the resident has the right to refuse to communicate with the Ombudsman.
- (c) **The resident has the right to participate in planning any course of action to be taken on his behalf by the State or Regional Ombudsman, and the resident has the right to approve or disapprove any proposed action to be taken on his behalf by the Ombudsman.**
- (d) The State or Regional Ombudsman shall meet with the facility administrator or person in charge before any action is taken to allow the facility the opportunity to respond, provide additional information, or take appropriate action to resolve the concern.

- (e) The State and Regional Ombudsman may obtain from any government agency, and this agency shall provide, that cooperation, assistance, services, data, and access to files and records that will enable the Ombudsman to properly perform his duties and exercise his powers, provided this information is not privileged by law.
- (f) If the subject of the complaint involves suspected abuse, neglect, or exploitation, the State or Regional Ombudsman shall notify the county department of social services' Adult Protection Services section of the county department of social services, pursuant to Article 6 of Chapter 108A of the General Statutes. (1989, c. 403, s. 1; 1993, c. 539, s. 1038; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 254, s. 4.)

**§ 143B-181.21. State/Regional Long-Term Care Ombudsman; resolution of complaints.**

- (a) Following receipt of a complaint, the State or Regional Ombudsman shall attempt to resolve the complaint using, whenever possible, informal technique of mediation, conciliation, and persuasion.
- (b) Complaints or conditions adversely affecting residents of long-term care facilities that cannot be resolved in the manner described in subsection (a) of this section shall be referred by the State or Regional Ombudsman to the appropriate licensure agency pursuant to G.S. 131E-100 through 110 and G.S.131D-2. (1989, c. 403.)

**§ 143B-181.22. State/Regional Long-Term Care Ombudsman; confidentiality.**

The identity of any complainant, resident on whose behalf a complaint is made, or any individual providing information on behalf of the resident or complainant relevant to the attempted resolution of the complaint along with the information produced by the process of complaint resolution is confidential and shall be disclosed only as permitted under the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq. (1989, c. 403, s. 1; 1995, c. 254, s. 5.)

**§ 143B-181.23. State/Regional Long-Term Care Ombudsman; prohibition of retaliation.**

No person shall discriminate or retaliate in any manner against any resident or relative or guardian of a resident, any employee of a long-term care facility, or any other person because of the making of a complaint or providing of information in good faith to the State Ombudsman or Regional Ombudsman. (1989, c. 403.)

**§ 143B-181.24. Office of State/Regional Long-Term Care Ombudsman; immunity from liability.**

No representative of the Office shall be liable for good faith performance of official duties. (1989, c. 403.)

**§ 143B-181.25. Office of State/Regional Long-Term Care Ombudsman; penalty for willful interference.**

Willful or unnecessary obstruction with the State or Regional Long-Term Care Ombudsman in the performance of his official duties is a Class 1 misdemeanor. (1989, c. 403; 1993, c. 539, s. 1039; 1994, Ex. Sess., c. 24, s. 14(c).)







**North Carolina**

# State Long-Term Care Ombudsman Program

**2015 Annual Report**

*Promoting quality of life and quality of care  
for long-term care residents.*



*Aging and Adult Services*  
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Department of Health and Human Services  
Richard O. Brajer, Secretary  
Suzanne Merrill, Director, Division of Aging and Adult Services  
Victor Orija, State Long-Term Care Ombudsman  
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